



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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Ref: ENF-L

Mr. Thomas Daley, Esq.
City Attorney's Office
445 Marsac Avenue
P.O. Box 1480
Park City, Utah 84060

Mr. Kevin Murray, Esq.
Chapman and Cutler, LLP
201 South Main Street
Salt Lake City, Utah 84111-2266

Dear Mr. Daley and Mr. Murray:

I would like to thank you, your client and all the others who traveled to Denver last week to resolve some of the major issues that are delaying progress on the Richardson Flat OU3, OU4 Settlement Agreement. Your willingness to not only travel the distance (literally), but to also consider alternatives to achieve resolution was extremely helpful.

The purpose of this letter is to document the resolutions to the issues that I and the Richardson Flat Team observed during our discussion with you. Those resolutions will be described below by issue. I will also attempt to identify any as yet unresolved portions of those issues.

Status of Upper Watershed

EPA has agreed to perform a removal assessment in the upper watershed to determine if all significant sources of contaminant loading to Silver Creek have been addressed. This will not include those discharges that are currently being addressed by NPDES. If significant sources remain, EPA will, in its sole discretion, determine what work needs to be performed. That work, if necessary, will not be a part of the Settlement Agreement. EPA will likely perform this work in late spring and will notify you before the assessment starts. The cost of the assessment will be a Superfund response cost and will be addressed outside the scope of this Settlement Agreement.

Site Boundaries

The Site boundaries will remain as depicted in the map that was provided at our meeting last week. However, if OU4 work needs to be conducted on OU3 or vice versa, the work will dictate payment of response costs, not the OU boundary. EPA will work with both of your clients to phase the work understanding the scope of the OU boundaries.

Contribution to Water Treatment

Park City will pay a \$10 tipping fee on both CERCLA waste and development waste that goes into the new repository. CERCLA waste will be that waste coming from Park City's property at OU3, as well as some small portion of waste relating to contamination of the creek by the Prospector Drain. This latter apportionment still needs more discussion. Development waste is as defined in the draft Settlement Agreement. Tipping fees generated from development waste will go into a third party trust, which will be implemented in accordance with a trust agreement approved by EPA. The funds in the trust will be used by Park City in performing EPA-approved OU4 work. This allocation will supplant the requirement that UPCM pay Park City 20% of the cost of EPA-approved OU4 work. Park City understands that there will be limitations on the times when development waste can be brought to the repository. It has not been decided what would happen to surplus money in the trust if the tipping fees exceed the cost of EPA-approved OU4 work.

Waiver

This discussion focused on the geographic scope of a waiver only. Park City will agree to a geographic scope including OU3, OU4 and the Upper Silver Creek Watershed if EPA performs \$1 million worth of work in OU3 on properties for which ASARCO would have liability. This EPA participation will reduce the overall costs of EPA-approved OU3 work, thereby reducing Park City's 10% contribution to UPCM. UPCM understands that Park City is seeking limiting language on a 1975 easement which allows UPCM to perform mining in and around the Judge Tunnel. The limitation would be to prohibit activities which could increase the contaminant load that would have to be treated under a NPDES permit. The remainder of waiver issues, such as data usage, require further discussion in the very near future.

Please review this proposal and get back to me in the next week or so. EPA, DOI and the State are currently working on issues related to natural resource restoration and will be prepared to meet with you on that issue in the near future. We also need to continue our discussion on other aspects of the waiver. Please call me if you have questions.

Sincerely,

Matt Cohn
Legal Enforcement Program

cc: Joan Card, Park City
Mia Bearley, EPA
Kathy Hernandez, EPA
Maureen O'Reilly, EPA
John Dalton, EPA
Kelcey Land, EPA
Stan Christensen, EPA
Bill Murray, EPA
Carol Campbell, EPA
Sandra Allen, Utah DEQ
Heather Shilton, Utah DNR
Casey Padgett, DOI
Dana Jacobsen, DOI
Christopher Morley, DOI
Glenn Carpenter, BLM
Mike Turner, BLM
John Isanhart, FWS
Chris Cline, FWS
John Wegrzyn, FWS



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phases

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